



**Homeland
Security**

Privacy Office, Mail Stop 0655

November 18, 2019

SENT BY ELECTRONIC MAIL TO: foia@americanoversight.org

Austin R. Evers
Executive Director
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: 2020-HQFO-00146

Dear Mr. Evers:

This is the electronic final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated November 08, 2019, and received by this office on November 8, 2019. You are seeking (1) any designation by the Secretary of Homeland Security pursuant to 6 U.S.C. § 113(g) made identifying officers of the Department to serve as Acting Secretary in further order of succession and (2) if there are no responsive records to part 1 of this request, the most recent such designation of officers to serve in further order of succession (Date Range for Record Search: From 1/20/2019 To 11/8/2019).

A search of the Office of the Management Directorate for documents responsive to your request produced a total of two pages. I have determined that two pages will withheld in their entirety pursuant to Title 5 U.S.C. § 552 (b)(5), FOIA Exemption 5.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that the responsive documents qualify for protection under the Deliberative Process Privilege and the Attorney-Client Privilege.

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

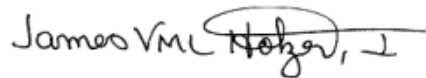
You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact our office and refer to **2019-HQFO-00617**. You may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner.

Sincerely,

A handwritten signature in black ink that reads "James V. McHolzer, Jr." with a stylized flourish at the end.

James Holzer
Deputy Chief FOIA Officer